UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Eric Walters, Plaintiff, v. Pilgrim's Pride Corporation, Defendant.	C.A. No. 3:16-cv-00724-JFA **AMENDED COMPLAINT**

Plaintiff, Eric Walters, complaining of the Defendant Pilgrim's Pride Corporation ("PPC"), would respectfully show unto the court:

PARTIES AND JURISDICTION

1. Plaintiff is a resident of Sumter County, South Carolina and was employed by Defendant PPC as a Commercial Quality Assurance ("QA") Supervisor at the Sumter facility.

2. Defendant PPC is a business incorporated in the state of Delaware with business locations across the nation; it is headquartered in Colorado and performs business in the state of South Carolina.

3. The events giving rise to the following causes of action occurred in Sumter County.

4. Plaintiff filed a Charge of Discrimination with the Equal Employment Opportunity Commission ("EEOC") alleging violations of the Americans with Disabilities Act of 1990, and the EEOC mailed Plaintiff's Notice of Right to Sue on December 5, 2017; as such, this action is timely and properly before this Court concerning Plaintiff's federal claim.

FACTUAL ALLEGATIONS

5. Plaintiff received positive performance evaluations throughout his employment with PPC and worked his way through the ranks to become a supervisor over third shift of the fresh plant at the Sumter facility. He worked for PPC for fifteen (15) years. Plaintiff's immediate supervisor was Wanda Judkins ("Judkins") who worked for PPC as a Commercial QA Superintendent. Plaintiff also worked with another PPC employee named Chris Haynes ("Haynes") who worked as a Complex Quality Manager.

6. In the Spring of 2007, Plaintiff was diagnosed with sarcoidosis, which is a lung disease, after Plaintiff underwent a biopsy. As a result of this diagnosis, Plaintiff experienced discomfort in breathing in extreme temperatures. Moreover, Plaintiff routinely scheduled doctors' appointments with his physicians located in Charleston, South Carolina.

7. On or around the beginning of the November of 2014, PPC experienced heavy monetary losses because hundreds of thousands of dollars of product had to be thrown away because it was not maintained at the temperature required by the U.S. Department of Agriculture.

8. As a result of these catastrophic losses, PPC initiated training to its employees, including Plaintiff, about the proper methods for keeping the raw chicken refrigerated for sale. Plaintiff reviewed the materials and made it his practice to implement the guidelines and instruct his employees to do the same.

9. At or around this time after PPC suffered the losses, Plaintiff discussed his medical diagnosis with Judkins in an office that they once shared together at PPC.

The purpose of Plaintiff discussing his diagnosis with Judkins related to his duty of monitoring a specific cooler in his unit to check for pallet temperatures prior to shipments being made out of the facility. During this conversation, Plaintiff explained to Judkins that he would no longer be able to endure the extreme temperature of the cooler to check the temperature of each pallet; thus, Plaintiff assigned that duty to another employee named Dewayne Lloyd ("Lloyd"). Judkins was further made aware of Plaintiff's disability because, on occasion, Plaintiff requested to leave work early or time off from his job for his doctors' appointments. Plaintiff is also aware that these accommodations were documented in his medical and personnel files kept by PPC.

10. On June 19, 2015, Plaintiff was called into Judkins's office with Haynes, wherein Judkins relayed to Plaintiff that she was going to issue written discipline to Plaintiff for poor work performance; this disciplinary action occurred within days of Plaintiff's discussion with Judkins about his lung disease. Judkins went on to tell Plaintiff about several instances involving the cooler and temperature issues that occurred on Plaintiff's shift; however, Plaintiff tried in vain to explain that the cooler issues were actually occurring on Judkins's shift and being passed over to Plaintiff's night shift for blame. Judkins ignored Plaintiff's concerns and continued to blame him for cooler issues that were similar in nature to those PPC experienced prior. Judkins accused Plaintiff of failing to follow protocol.

11. Once again, Judkins met with Plaintiff on June 22, 2015, and issued a written discipline notice to him about the concern with temperatures in the coolers. Again, Plaintiff reiterated that the temperature issues were occurring on Judkins's shift, but she denied the same and blamed Plaintiff and his subordinates.

12. Following this write-up, Plaintiff went on vacation for eleven (11) days as previously scheduled to take some time off. He returned to work on July 12, 2015. When Plaintiff returned to work, Judkins attempted to hand Plaintiff some termination paperwork on the early morning of July 13, 2015.

13. Judkins took the termination paperwork to Human Resources ("HR") to have Plaintiff permanently fired. Mike Crutcher ("Crutcher") with HR advised Plaintiff to attend a meeting with Crutcher and Judkins. Crutcher set a meeting with Plaintiff and Judkins for the morning of July 14, 2015. In the meantime, Plaintiff gathered his own paperwork, including e-mails he had from his shift workers, explaining that the raw chicken in several coolers was not kept at the right temperature when they reported to work and began the cooler checks, which was *after* Judkins's shift.

14. Plaintiff reported to the meeting with Crutcher, and Judkins failed to attend. During the meeting, Plaintiff asked Crutcher if he had conducted an investigation into Judkins's allegations to support the termination paperwork, and Crutcher admitted he did not do an investigation. Plaintiff questioned PPC's failure to give him due process. Plaintiff showed Crutcher his own supporting documentation, and Crutcher made copies of Plaintiff's paperwork. He informed Plaintiff he had questions for Judkins and further instructed Plaintiff to apply for a production supervisor position, which was Plaintiff's former job.

15. Crutcher told Plaintiff that Judkins and Haynes went to their supervisor, Ken Suber ("Suber"), after Plaintiff applied for his old job and attempted to directly interfere and prohibit Plaintiff from being hired. Upon information and belief, Plaintiff's old supervisor was going to hire him into his former position until Judkins

and Haynes went to Suber and asked him to keep Plaintiff from getting the job. For example, numerous PPC employees told Plaintiff that they expected him to return to work in this "new" job until and after Judkins and Haynes talked to Suber: Larocco Salvatore, Michelle Saxon, and Selena Richburg.

16. Plaintiff, after having been given termination paperwork, was not allowed to return to work after July 13, 2015. As a result, Plaintiff filed for unemployment benefits though the South Carolina Department of Employment and Workforce ("SCDEW").

17. After filing his claim, Plaintiff was notified that PPC reported to the SCDEW that Plaintiff was on medical leave, which was untrue; Plaintiff never did take medical leave, nor did he take an extended medical leave due to his disability.

18. Weeks went by, and Plaintiff – not out on medical leave – was not allowed to return to his job, and he was never contacted about an interview for the production supervisor position for which he applied as instructed.

19. On September 24, 2015, Plaintiff was notified that he was being terminated as a result of a reduction in force ("RIF") although he was the only person terminated as a result of the purported RIF. Upon information and belief, PPC is currently hiring in Plaintiff's former job area.

20. From July 13, 2015 through September 24, 2015, Plaintiff – having no permission or ability to return to work due to Judkins's actions – was humiliated and further embarrassed because he had previously been regarded as a good supervisor, and his colleagues and family began to question his work absence.

21. Judkins continued to blame Plaintiff and his shift for cooler issues and failed to take any blame or responsibility for the wrong temperatures that occurred under her supervision. Judkins complained to Lloyd, another PPC employee who worked with Plaintiff, that Plaintiff "wasn't doing the coolers right." Judkins also made the same or similar comments to Larocco Salvatore, who worked on Plaintiff's shift under his supervision. Moreover, Judkins along with Angie Perkins ("Perkins"), another PPC employee, complained to Phillip Bauler that Plaintiff failed to operate the cooler correctly and that subsequent problems arising after Plaintiff's termination were due to Plaintiff's failures.

22. Additionally, Lance Wilson ("Wilson"), a former PPC employee who now works with a PPC competitor – Reese Foods ("Reese") – informed Plaintiff that his supervisor, Theresa Calhoun, told Wilson directly that the reason she did not hire Plaintiff at Reese was because of reports about Plaintiff's negative performance that she received from employees at PPC.

FOR A FIRST CAUSE OF ACTION AGAINST DEFENDANT PPC (Defamation of Character)

23. Plaintiff realleges paragraphs 1-22 herein.

24. Plaintiff is a private figure.

25. Plaintiff was slandered by oral and written statements as well as by actions of Defendant PPC.

26. These statements and actions made against Plaintiff were made by agents and servants of Defendant PPC acting in the course and scope of their employment under

the circumstances alleged above. These agents and servants include Wanda Judkins and Angie Perkins.

27. These statements and actions are false.

28. These statements and actions, including false accusations that Plaintiff did not follow PPC policy, was responsible for cooler issues during and after his employment, and made poor management decisions, have defamed Plaintiff in his trade, business, and profession; specifically, Plaintiff was not considered for a position with a competing company because of these negative reports made by PPC employees to Reese employees.

29. By the false statements and actions made against Plaintiff by agents and servants of Defendant PPC acting in the course and scope of their employment, Defendant PPC defamed Plaintiff, and the defamation was published to Plaintiff's colleagues, friends, and possibly others, including outside companies like Reese, where Plaintiff applied for positions after his PPC termination.

30. The false statements and actions were not privileged, as there was no duty to furnish the information to the recipients – including Plaintiff's former subordinates and Reese employees, and they circulated to persons other than Plaintiff and his superiors, injuring his professional reputation.

31. The statements and actions made by the agents and servants of Defendant PPC acting within the course and scope of their employment, together with the actions that Defendant PPC took, including the actions that proximately caused Plaintiff's termination, are defamatory *per se*.

32. That such statements and actions were false, known to be false, and given with reckless disregard for the truth, were maliciously made, and have proximately caused Plaintiff's severe and continuing damages including the loss of his job, loss of income, loss of earning capacity, and future income and benefits associated therewith. Further, Plaintiff has sustained embarrassment, humiliation, damage to his reputation, emotional distress, and pain and suffering, which will continue into the foreseeable future. As a result of these actions, Plaintiff lost a considerable amount of sleep and his self-confidence.

FOR A SECOND CAUSE OF ACTION
AGAINST DEFENDANT PPC
(Violation of the Americans with Disabilities Act of 1990)

33. Plaintiff realleges paragraphs 1-32 herein.

34. Plaintiff was diagnosed and suffered from a physical disability known as sarcoidosis, which is a lunch disease. As a result of this disease, Plaintiff suffers from physical symptoms relating to his breathing, including experiencing breathing problems in extreme temperatures.

35. Plaintiff made PPC aware of his disability by informing Judkins of the same and making a request for accommodations as follows: Plaintiff requested that he not be assigned to monitor pallet temperatures in the cooler and offered to assign another member of his shift to that task. Plaintiff also sought approval to leave work early and/or take time off from work to make doctors' appointments out of town.

36. After learning of Plaintiff's disability and his requests for reasonable accommodations, Judkins issued pretextual disciplinary notices to Plaintiff that eventually resulted in his termination. The disciplinary notices were false, as

Judkins's issuance of them and her directive that Plaintiff be terminated were truly because Plaintiff informed her that he was disabled and that he needed a reasonable workplace accommodation.

37. Through the actions that Judkins took towards Plaintiff, including his eventual termination, PPC violated Plaintiff's rights under the Americans with Disabilities Act of 1990. There was no legitimate, non-discriminatory reason for denying Plaintiff the accommodations he sought, nor was there a legitimate, non-discriminatory reason for Plaintiff's termination.

38. As further evidence in support of Plaintiff's position, he was the only employee who was affected by the alleged RIF that PPC stated was one cause of his termination. Additionally, PPC informed SCDEW that Plaintiff was "on medical leave," which was untrue.

39. As a result of PPC's unlawful behavior and violation of Plaintiff's rights under the Americans with Disabilities Act of 1990, Plaintiff suffered adverse employment actions as follows: Plaintiff was reprimanded, and Plaintiff was terminated from his position, resulting in the loss of his salary and other employment benefits.

40. Due to PPC's unlawful behavior, Plaintiff suffered the loss of his income, health insurance, and other benefits associated with his former position.

WHEREFORE, Plaintiff prays for judgment against the Defendant PPC for an appropriate amount of compensatory and actual damages, as well as punitive damages to deter such malicious behavior. Plaintiff also prays for equitable relief in the form of full back pay and any other relief granted by the court.

Respectfully Submitted,

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